

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0027
(916) 319-2027
FAX (916) 319-2127

DISTRICT OFFICES
701 OCEAN STREET,
SUITE 318B
SANTA CRUZ, CA 95060
(831) 425-1503
FAX: (831) 425-2570

99 PACIFIC STREET
SUITE 555-D
MONTEREY, CA 93940
(831) 649-2832
(408) 782-0647
FAX: (831) 649-2935

Assembly California Legislature

JOHN LAIRD

ASSEMBLYMEMBER, TWENTY SEVENTH DISTRICT

COMMITTEES
Chair, BUDGET
JUDICIARY
LABOR & EMPLOYMENT
NATURAL RESOURCES

March 24, 2008

Joan Denton, Director
Office of Environmental Health Hazard Assessment
1001 I Street, P.O. Box 2815
Sacramento, CA 95812

Mary-Ann Warmerdam, Director
California Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, CA 95812

Mark Horton, Director
California Department of Public Health
1615 Capitol Avenue, PO Box 997377
Sacramento, CA 95812-95899

Dear Directors Denton, Warmerdam and Horton,

I am writing to you today to request your attention and response regarding a number of outstanding health-related matters associated with the California Department of Food & Agriculture's (CDFA) 2007 and 2008 Light Brown Apple Moth (LBAM) eradication program. With CDFA's 2008 plans set to be implemented beginning in the next few weeks – including new ground-based applications – I am requesting your urgent attention to these matters.

What follows is background on the issue, as well as specific matters of interest, including health complaint evaluations, the need for independent analysis on likely health impacts, and development of a reporting/tracking program.

As you know, in early September 2007, after the CDFA completed the first round of aerial spraying in Monterey County, numerous residents reported adverse health effects such as irritated throats, shortness of breath, headaches and nausea. A few residents visited their doctors, but most complaints were registered with concerned individuals, primarily by e-mail. Many residents also raised these concerns directly with CDFA.

Recognizing that many constituents might not have ready access to health care or may not be knowledgeable about County-level clinics, I encouraged CDFA Secretary Kawamura to create a dedicated LBAM telephone hotline. I felt it was vitally important any complaints arising from the Department's LBAM program should be collected and fully analyzed. CDFA assured me their existing hotline was equipped to log health complaints and the "department's medical toxicologist [was] actively compiling and analyzing the collected data" (Letter from Secretary Kawamura, October 4, 2008, p. 2).

In the weeks leading up to the second round of spraying on the Central Coast, it became apparent the process for following-up on complaints reported to CDFA's hotline was counterproductive for two key reasons. First, CDFA's system was inconsistent with California's established process for reporting known or suspected pesticide illnesses. Second, on multiple occasions, CDFA's medical toxicologist publicly stated it was his view the reported illnesses could not be caused by the pheromone spray, thus raising concerns among residents as to whether the data was being objectively analyzed, or even simply ignored.

At present, the number of health complaints that have been compiled by concerned citizens is over 600. The CDFA, in its February 2008 report to the Legislature, acknowledged 330 health complaints. Of the 330, it is my understanding approximately 40 complaints were submitted by doctors. Yet to date, the only official response to the health complaints has been the Consensus Statement published by Office of Environmental Health Hazard Assessment (OEHHA) and Department of Pesticide Regulation (DPR) on October 31, 2007.

To the extent the Consensus Statement sought "to provide information on the toxicity of microencapsulated pheromones and the potential for exposure, and to provide recommendations," I believe OEHHA and DPR have produced an informative document. I also applaud OEHHA and DPR for recommending a tracking program that "looks at a number of factors including, but not limited to, both long- and short-term health outcomes, exposed and unexposed persons, the potential effects of stress and outreach methods on illness complaints [in order] to begin to properly address the question of causality" (OEHHA/DPR Consensus Statement, October 31, 2007, p. 6 and 7-8).

However, the Consensus Statement was not a "human health risk assessment or an epidemiological study of exposed individuals." Further, the Statement acknowledged that "because not all health effects can be predicted and because the general population includes susceptible populations, such as children, the elderly and those with chronic diseases, we cannot provide a definitive cause for their symptoms."

Furthermore, the US Environmental Protection Agency's conclusion (cited in the Consensus Statement) that "based on low toxicity in animal testing, and expected low exposures to humans, no risk to human health is expected from the use of the pheromones" refers "primarily to the pheromone active ingredients generally used in

emitter devices or aerial application over *agricultural areas rather than aerial application over populated areas (emphasis added).*”

In a number of weeks, CDFA intends to begin ground-level bacteria application and applying permethrin-laced moth attractant insecticide in conjunction with expanded use of pheromone-treated twist ties and releasing stingless trichogramma wasps. The Department is also conducting studies in New Zealand of several carrier methods for aerial spraying, including microcapsules, paste-like droplets, and flakes. According to the Department's 2008 Light Brown Apple Moth Program Questions and Answers sheet, the products are being evaluated for “efficacy, longevity and ease of application.” The Department intends to have results of its evaluations by April 2008 with the goal of aerial applications resuming over the Monterey Bay area in June and the San Francisco Bay area in August.

The list of unresolved questions and concerns about CDFA’s LBAM program continues to grow. Therefore, going forward, I respectfully request OEHHA, DPR, DPH (and any other applicable state departments and agencies involved in the LBAM eradication effort) to publish the following:

1. An evaluation of the health complaints arising from CDFA’s 2007 aerial spraying.
2. An analysis of the likely health impacts of the CDFA’s 2007 actions and its 2008 plans, including the new pheromone-based pesticide and its inert ingredients, ground-level bacteria applications and applying permethrin-laced moth attractant insecticide on: healthy adults and children; those with compromised health systems; those with asthma or other lung sensitivities who breathe in microcapsules; and, air quality and particulate load.

Dr. Poki Nankung, the Santa Cruz County Public Health Officer, has offered a detailed analysis and recommendations for the human health risk assessment. Dr. Nankung recommends the human health risk assessment be conducted by OEHHA and independent of the CEQA process. Consistent with my above request, the assessment should consider all proposed methods vis-à-vis a comprehensive set of parameters. In addition, OEHHA should utilize oversight by relevant experts and subject their assessment to peer-review, including review by local public health officials. Dr. Nankung’s analysis and recommendations are attached, and should be helpful in your efforts.

3. A formal plan that describes OEHHA’s reporting/tracking program for health effects.

In addition to tracking new or unsuspected exposure-disease relationships, Dr. Nankung recommends tracking existing health care utilization and health outcomes data, as this may provide an additional approach to monitor population health effects. She calls for a system that is more specific than the current Pesticide Illness Reporting system, which would require training and funding for clinical and laboratory care and diagnosis.

Further, I believe it is simply unrealistic to expect every person who suspects he or she is experiencing health effects because of the LBAM program will have the capacity to visit their doctor—though I fully concur that people should be strongly encouraged to see their physician or go to a local clinic. With this in mind, an anecdotal “complaint driven” system is needed, and as Dr. Namkung suggests, it should be married to the monitoring system. In this regard, I do not believe relying on CDFA’s hotline to record complaints arising from the LBAM program is effective for reasons stated above. It is critically important that any public reporting mechanism for the tracking program be widely viewed as “credible and trusted,” as recommended in the Consensus Statement.

In closing, I have also asked CDFA whether it intends to adopt the Consensus Statement’s recommendation to undertake air sampling on particulate load, and I look forward to learning what roles your departments may have in that effort.

As you know, CDFA intends to begin ground-level spraying using *Bacillus thuringiensis* and Spinosad, and applying permethrin-laced, male moth attractant treatments within a matter of weeks. The items addressed in this letter must be in place prior to ground-based actions and aerial spraying, so your urgent attention to these recommendations is vital.

I would be pleased to discuss these issues with you further, and I look forward to your responses.

Sincerely,

A handwritten signature in black ink that reads "John Laird". The signature is written in a cursive, slightly stylized font.

JOHN LAIRD, Assemblymember
27th District

JL:cf

Attachment

cc: A. G. Kawamura, California Department of Food & Agriculture
Dr. Poki Namkung, Public Health Officer, Santa Cruz County